

U.S. NUCLEAR REGULATORY COMMISSION

DIRECTIVE TRANSMITTAL

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To: NRC Management Directives Custodians

Subject: Transmittal of Management Directive 10.47, "Retention Allowance Program"

Purpose: Directive and Handbook 10.47, are being revised to update organizational changes resulting from recent reorganizations and to add new authority to provide retention allowances for groups of employees based on recent modifications of OPM regulations (see page 1 of the Handbook).

Office and Division of Origin: Office of Human Resources

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Volume: 10 Personnel Management

Part: 2 Position Evaluation and Management, Pay Administration, and Leave

Directive: 10.47 Retention Allowance Program

Availability: Rules and Directives Branch
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Retention Allowance Program

Directive
10.47

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U. S. Nuclear Regulatory Commission

Volume: 10 Personnel Management

Part: 2 Position Evaluation and Management, Pay Administration, and Leave HR

Retention Allowance Program

Directive 10.47

Policy

(10.47-01)

It is the policy of the U.S. Nuclear Regulatory Commission to use retention allowances to retain employees who are highly or uniquely qualified or who fulfill special agency needs if it is determined that the employee is likely to leave Federal service and, as a result, the agency's ability to carry out an essential activity or function would be adversely affected.

Objectives

(10.47-02)

- To adopt and implement the retention allowance provisions of the Federal Employees Pay Comparability Act (FEPCA) of 1990 and the applicable implementing regulations from the Office of Personnel Management (OPM). (021)
- To ensure agencywide uniformity in the application of criteria to NRC employees. (022)
- To encourage and promote the retention of essential employees who are likely to leave the Federal service. (023)

Organizational Responsibilities and
Delegations of Authority
(10.47-03)

Chairman
(031)

Approves allowance recommendations for Commission staff members and employees of Commission-level offices as indicated in Exhibit 1 of Handbook 10.47.

Commission
(032)

Each Commissioner recommends payment of retention allowances for his or her immediate staff members as indicated in Exhibit 1 of Handbook 10.47.

Executive Director for Operations (EDO)
(033)

- Reviews allowance recommendations for Commission staff members and employees in Commission-level offices and approves recommendations for employees in EDO staff offices as indicated in Exhibit 1 of Handbook 10.47. (a)
- In consultation with the Chairman, appoints members and subgroups of the FEPCA Senior Management Review Panel. (b)

Chief Financial Officer (CFO)
(034)

Develops and implements payroll and accounting procedures governing payment, reduction, or termination of retention allowances.

Organizational Responsibilities and
Delegations of Authority
(10.47-03) (continued)

Inspector General (IG)
(035)

- Appoints members of the Office of the Inspector General (OIG) FEPCA Senior Management Review Panel. (a)
- Approves recommendations for retention allowances for employees of OIG. (b)

Deputy Executive Director for
Management Services (DEDM)
(036)

Directs program oversight and evaluation activities.

FEPCA Senior Management Review Panel
(037)

- Ensures through review by panel subgroups that each recommendation for a retention allowance meets the criteria for coverage. (a)
- Reviews amounts recommended to ensure agencywide uniformity. (b)
- Recommends payment of the retention allowance and the amount of the allowance to the deciding official. (c)
- The OIG FEPCA Senior Management Review Panel performs the above functions for OIG employees. (d)

Organizational Responsibilities and Delegations of Authority (10.47-03) (continued)

Director, Office of Human Resources (HR) (038)

- Develops and implements program parameters and guidance. (a)
- Advises and provides technical assistance to the FEPCA Senior Management Review Panel on retention allowance recommendations and actions. (b)
- Provides technical review of individual requests for payment to ensure regulatory compliance. (c)
- Evaluates program success in achieving objectives and makes adjustments, as required. (d)

Office Directors and Regional Administrators (039)

- Recommend payment of retention allowances for employees in their organizations, using criteria specified in Handbook 10.47 and as indicated in Exhibit 1 to the handbook. (a)
- Recommend reduction, increase, or termination of allowances in coordination with the Director, HR. (b)

Definitions (10.47-04)

Employee. An individual serving under appointment to the NRC.

Definitions

(10.47-04) (continued)

Rate of Basic Pay. The amount of pay fixed by law or administrative action for the position held by an employee or, in the case of an employee who is entitled to grade or pay retention, the employee's retained rate of pay before deductions and exclusive of additional pay of any kind. Examples of additional pay are locality-based comparability payments or interim geographic adjustments or special pay adjustments for law enforcement officers. For purposes of application within the NRC, special pay rates for resident inspectors are considered comparable to special pay adjustments for law enforcement officers and are excluded from the definition of basic pay.

Applicability

(10.47-05)

The retention allowance provisions apply to all NRC employees except members of the Commission and Administrative Law Judges who are excluded by regulation, and the Inspector General and Administrative Judges who are excluded by agency policy. (051)

The retention allowance covers current employees who have completed 1 year of continuous service with the NRC before the payment of the allowance or, if applicable, a period of employment established under the service agreement required for payment of a recruitment or relocation bonus, whichever occurs later. (052)

Handbook

(10.47-06)

Handbook 10.47 provides the criteria and procedures for requesting application of the retention allowances pay authority on a case-by-case basis.

Volume 10, Part 2 - Position Evaluation and Management, Pay
Administration, and Leave
Retention Allowance Program
Directive 10.47

References

(10.47-07)

Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 et seq.).

Code of Federal Regulations, 5 CFR 575, Subpart C, "Retention Allowances."

Energy Reorganization Act of 1974, as amended (42 U.S.C. 5801 et seq.).

Federal Employees Pay Comparability Act of 1990, Pub. L. 101-509, 104 Stat. 1427 (5 U.S.C. 5301 note).

"Recruitment and Relocation Bonuses" (5 U.S.C. 5753, 1990 Supp.).

Retention Allowance Program

Handbook
10.47

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Retention Allowance Program

Purpose of and Criteria for the Retention Allowance Program (A)

Purpose of the Pay Authority Within the U.S. Nuclear Regulatory Commission (1)

The purpose of the Retention Allowance Program is to authorize retention allowances for employees with essential skills or unique or unusual qualifications who are likely to leave the Federal service. Judicious use of the pay authority is expected to have a direct, positive effect on the agency's ability to retain highly qualified employees with unique or unusual qualifications or essential skills. (a)

This pay authority should be used only when the need for the employee's services make it essential to retain the employee. (b)

Criteria for the Initial Eligibility Determination (2)

The agency may pay a retention allowance to any employee if the employee is likely to leave the Federal service for any reason. (a)

There must be a written determination that it is essential to retain the employee who is highly or uniquely qualified or who fulfills a special agency need that makes it necessary to retain the employee and that the employee would otherwise leave Federal service. (b)

To support this determination, consider the following criteria in the narrative, as applicable— (c)

- Provide evidence that the employee is likely to leave the Federal service. (i)

Purpose of and Criteria for the
Retention Allowance Program (A) (continued)

Criteria for the Initial Eligibility Determination (2) (continued)

- Describe the extent to which the employee's departure would affect the agency's ability to carry out an activity or perform a function deemed essential to the agency's mission. (ii)
- Describe recent efforts to recruit candidates and retain employees with qualifications similar to those possessed by the employees in similar positions. (iii)
- Specify the availability in the labor market of candidates who could perform the employee's full range of duties with minimal training or disruption of services to the public. (iv)

Care should be used in selecting between a waiver of dual compensation limitations and a retention allowance when the employee is retiring to accept employment outside the Government to ensure that the specific criteria applicable to each situation are met and the choice most advantageous to the NRC is made. (d)

A retention allowance cannot be paid to an employee who is fulfilling a service agreement for a relocation or recruitment bonus. However, after retention allowance payments have commenced, a relocation bonus may be paid without affecting the payment of a retention allowance. (e)

A current employee must have completed at least 1 year of continuous service with the NRC to be eligible for coverage. (f)

The agency has authority to pay retention allowances to a targeted group or category of employees when it is reasonable to presume that there is a high risk that a significant number of employees in the targeted group are likely to leave the Federal service. There

Purpose of and Criteria for the
Retention Allowance Program (A) (continued)

Criteria for the Initial Eligibility Determination (2) (continued)

must be a written determination that the category of employees has unusually high or unique qualifications, or the agency has a special need for the employees' services that makes it essential to retain the employees in that category. The authority to approve a pay retention allowance for a group or category does not apply to employees in the Senior Executive Service, Senior-Level System employees, or Executive Schedule positions. (g)

Criteria for Determining the Amount of the Allowance (3)

The basis for each allowance paid shall be a written determination that the unusually high or unique qualifications of the employee or special need of the agency for the employee's services makes it essential to retain the employee and that, in the absence of such an allowance, the employee would be likely to leave the Federal service. (a)

The allowance is calculated as a percentage of the employee's rate of basic pay. (b)

The agency may specify a targeted group or category of employees for which retention allowances may be authorized (such as computer programmers or other information technology employees) and may pay a retention allowance of up to 10 percent of the employee's basic rate to individuals included in this targeted group. (c)

Retention allowances approved on a case-by-case basis may be set at any amount, not to exceed 25 percent of the employee's basic rate of pay. (d)

Purpose of and Criteria for the Retention Allowance Program (A) (continued)

Criteria for Determining the Amount of the Allowance (3) (continued)

Consider the following in determining the specific amount of the allowance— (e)

- The severity or criticality of the loss of the employee to the NRC's mission (i)
- The reason that a lesser amount would not be sufficient to retain the employee (ii)
- Assurance that the allowance does not increase the annual rate of all continuing payments to the employee to a pay level above that of Executive Level I (iii)

Processing a Request for Payment of a Retention Allowance (B)

Initiating a Request To Use a Retention Allowance (1)

The office director, regional administrator, or the Assistant Inspector General for Audits (AIGA) or Assistant Inspector General for Investigations (AIGI) for the Office of the Inspector General (OIG), as appropriate (see Exhibit 1 of this handbook), prepares the request. Prepare this request in the format shown in Exhibit 2 so that it addresses both the criteria to be met in making an initial determination of eligibility and the criteria for determining the amount of the payment. (a)

Submit requests on a case-by-case basis to the Director, Office of Human Resources (HR), for technical review. (b)

Processing a Request for
Payment of a Retention
Allowance (B) (continued)

Initiating a Request To Use a Retention Allowance (1)
(continued)

In determining whether to request a retention allowance for an employee, the office director, regional administrator, or AIGA/AIGI for OIG, assesses the individual situation against the criteria in Part I of this handbook and any guidance from the agency Federal Employees Pay Comparability Act (FEPCA) Senior Management Review Panel or the OIG FEPCA Senior Management Review Panel, as appropriate. In addition, the requester should consider— (c)

- The criticality of the project for which the employee's services must be retained (i)
- The estimated length of time the retention allowance will be needed (ii)
- Whether other payments or incentives could be used to retain the individual in lieu of or in addition to the retention allowance (iii)

Technical Review (2)

The Director, HR, or the Deputy Inspector General (IG) for OIG, reviews each request to determine whether it meets all regulatory and personnel management requirements and then indicates concurrence or nonconcurrence with the request. (a)

The Director, HR, or the Deputy IG for OIG, arranges for a meeting of a subgroup of the FEPCA Senior Management Review Panel and forwards the request to the panel for review. (b)

Processing a Request for
Payment of a Retention
Allowance (B) (continued)

Technical Review (2) (continued)

The Director, HR, or the Deputy IG for OIG, provides any additional technical assistance requested by the panel. (c)

FEPCA Senior Management Review Panel (3)

The Executive Director for Operations (EDO), in consultation with the Chairman, where appropriate, designates a subgroup of the FEPCA Senior Management Review Panel to review the request. (a)

A subgroup of the panel reviews the request, determines whether it meets the initial criteria, and reviews the amount requested after considering the criteria and uniformity/consistency within the agency in implementing the program. (b)

The IG appoints members of the OIG FEPCA Panel to review and make recommendations on any results for a retention allowance for employees of the OIG. (c)

The recommendation is then forwarded to the deciding official for a final decision. (d)

Approval or Disapproval (4)

The deciding official reviews the recommendations of the agency or OIG FEPCA Senior Management Review Panel and all other relevant documentation and makes the final decision. (a)

Processing a Request for
Payment of a Retention
Allowance (B) (continued)

Approval or Disapproval (4) (continued)

The deciding official forwards the decision to the Director, HR, or AIGA/AIGI for OIG, in consultation with Director, HR, for implementation. (b)

Implementing the Decision (5)

The Director, HR, notifies the requesting official of the decision. (a)

For approved requests, the Director, HR, informs the employee of the decision and advises the employee of any applicable provisions for periodic review. (b)

The Director, HR, forwards a copy of the documentation to the Chief Financial Officer (CFO) for processing. (c)

The Director, HR, immediately notifies the CFO by telephone, and submits an SF 50, as appropriate, of any personnel action relating to the employee that would cause a change in or termination of the retention allowance. (d)

For disapproved requests, the Director, HR, or Director, RMOS, for OIG, returns the request to the appropriate office director, regional administrator, or AIGA/AIGI for OIG. (e)

Payment and Adjustments (C)

Limits on Pay (1)

Retention allowances are subject to the aggregate limit on pay in a calendar year that is set at Executive Level I. (a)

Payment and Adjustments (C) (continued)

Limits on Pay (1) (continued)

Retention allowances may continue to be paid as long as the conditions giving rise to the original determination exist. (b)

Type of Payment (2)

The retention allowance is paid in the same manner and at the same time as basic pay; however, a retention allowance is not considered to be a part of basic pay for any purpose including for purposes of processing a lump-sum payment for annual leave.

Payment and Adjustment Procedures (3)

CFO determines procedures for the actual payment, increase, reduction, or termination of allowances. (a)

Review retention allowances annually to determine whether they are still warranted or whether any adjustments in the amounts are warranted. (b)

Review allowances at the time of an increase that will affect one or more nondiscretionary continuing payments to the employee to ensure that the pay limit for Executive Level I is not exceeded. The allowance may be reduced at that time. The Director, HR, in consultation with the CFO, must make any required reduction or termination on this basis. The Director, HR, notifies the individual receiving the allowance and the appropriate office director, regional administrator, or the Assistant Inspector for Audits or the AIGA or the AIGI for OIG. (c)

Normally, conduct requests to increase, decrease, or terminate an allowance during the annual review. (d)

Payment and Adjustments (C) (continued)

Payment and Adjustment Procedures (3) (continued)

- The annual review will be conducted on the anniversary date of the initial decision to pay the allowance. (i)
- The Director, HR, advises the office director or the regional administrator of the date for the annual review and the information necessary for the review. (ii)
- The office director or the regional administrator advises the Director, HR, by memorandum of the action being requested. Continuation of the allowance requires certification by the office director or the regional administrator that the original conditions warranting the allowance have not changed. (iii)
- Recommendations to increase, reduce, or terminate the allowance must include the specific reasons for the change. (iv)
- The Director, HR, performs a technical review, makes a recommendation, and forwards the request to the agency or OIG FEPCA Senior Management Review Panel. When the panel has completed its review and made its recommendation, it forwards the request to the deciding official for a final decision. (v)

The deciding official may reduce or terminate the allowance at any time when— (e)

- It is determined that a lesser amount would be sufficient to retain the individual. (i)
- Labor market factors make recruitment of a candidate with similar qualifications more likely. (ii)

Payment and Adjustments (C) (continued)

Payment and Adjustment Procedures (3) (continued)

- NRC's need for the employee's service has been reduced. (iii)
- Budgetary considerations make it difficult to continue payment at the original level. (iv)

The CFO must concur in all recommendations to reduce or terminate the allowance before the deciding official makes a final decision. (f)

Obligations and Oversight (D)

Records (1)

HR maintains documentation justifying payment of retention allowances in appropriate personnel and accounting files.

Reports (2)

HR submits a report of each determination to the Office of Personnel Management (OPM) as part of NRC's regular submission to OPM's Central Personnel Data File.

Oversight (3)

The Director, HR, will conduct oversight and evaluation activities to ensure that the use of this pay authority conforms to applicable laws and regulations.

Exhibit 1

Approval Authorities for Retention Allowances

Pay Authority	Recommending Official	Reviewing Official	Deciding Official
Retention Bonuses			
For all eligible employees as indicated—			
• Immediate staff of the Chairman or the Commission	Chairman or Commissioner	Director, HR ¹ EDO ² FEPCA Panel ³	Chairman
• Commission-level offices	Office Director	Director, HR EDO FEPCA Panel	Chairman
• EDO staff offices	Office Director or Regional Administrator	Director, HR FEPCA Panel	EDO
• OIG ⁴ staff	AIG ⁵	Deputy IG	IG ⁶
For reduction in amount of retention allowance—			
• Automatic reduction	Office Director or Regional Administrator	HR staff CFO ⁷	Director, HR
• Management-directed reduction (annual review)	Office Director	Director, HR CFO FEPCA Panel	Chairman or EDO
• OIG staff	AIG	Deputy IG	IG
For increase or termination of retention allowance—			
• Immediate staff of the Chairman or the Commission	Chairman or Commissioner	Director, HR CFO and EDO FEPCA Panel	Chairman

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Exhibit 1 (continued)

Pay Authority	Recommending Official	Reviewing Official	Deciding Official
• Commission-level offices	Office Director	Director, HR CFO and EDO FEPCA Panel	Chairman
• EDO staff offices	Office Director or Regional Administrator	Director, HR CFO FEPCA Panel	EDO
• OIG staff	AIG	Deputy IG	IG

¹Office of Human Resources

²Executive Director for Operations

³The Federal Employees Pay Comparability Act
Senior Management Review Panel

⁴Office of the Inspector General

⁵Assistant Inspector General

⁶Inspector General

⁷Chief Financial Officer

Exhibit 2
**Request To Use Recruitment/Relocation Bonus,
Retention Allowance, or Advance in Pay Authority**

TO: Chairman or the Executive Director for Operations

THRU: Director, Office of Human Resources (HR) or Deputy Inspector
General, Office of the Inspector General (OIG)

FROM: Office Director, Regional Administrator, or Assistant Inspector for
Audits (AIGA) or Assistant Inspector General for Investigations
(AIGI) for OIG

SUBJECT: REQUEST TO USE PAY AUTHORITY

- I.A. This position is being filled through ____ reassignment ____ competition.
(If filled through competition, the vacancy announcement must have stated that
there was a possibility that a relocation or recruitment bonus might be paid.)
- B. I request approval for the use of the following pay authority for (name).
____ **Recruitment Bonus** ____ **Relocation Bonus** ____ **Retention Allowance**
I recommend that the amount of the bonus/allowance be ____ percent of basic
pay.
____ **Advance in Pay**
- C. I have reviewed the criteria outlined in the handbook and have attached a
narrative justification that addresses both the criteria to be met in making an initial
determination to use the pay authority and the criteria for determining the amount
of the payment.

Date

Signature (Office Director, Regional Administrator,
or AIGA/AIGI for OIG)

Exhibit 2 (continued)

- II. I have reviewed the request for the use of the above-indicated pay authority, and have determined that it ____ does ____ does not meet the criteria specified in the handbook. I ____ do ____ do not concur with this recommendation. An explanation is attached for any nonconcurrence.

Date

Signature (Director, HR, or Deputy IG for OIG)

Note: For approval authority for requests for advances in pay, go directly to Part VI of this exhibit for the Chief Financial Officer's coordination and implementation.

- III. We have reviewed the request for use of the above pay authority. We ____ do ____ do not agree that it fully meets the criteria for payment. We ____ do ____ do not agree with the amount recommended. We recommend an alternate payment amount of ____ based on the attached evaluation. We recommend that this request be ____ approved ____ disapproved with any change noted. Justification for this recommendation is attached.

Date

Signature (Chairman, Federal Employees Pay
Comparability Act [FEPCA] Senior Management
Review Panel or OIG FEPCA Panel, as appropriate)

- IV. I have reviewed the request for the use of the above authority and ____ approve ____ disapprove the request ____ for the amount initially requested, or for the amount of _____.

Date

Signature (deciding official)

Exhibit 2 (continued)

- V. Forward to the Director, HR, for implementation.
- VI. There ____ are ____ are not sufficient funds to pay for the request as approved above by the deciding official. (For advances in pay, this memorandum constitutes a request for employee notification information.)

Date

Chief Financial Officer (CFO)

(Return copy of form with CFO funds determination to HR.)